



W.P.(MD).Nos.14250 to 14253 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.14250 to 14253 of 2015

and

M.P(MD)No.1,1,1 and 1 of 2015

W.P.(MD).No.14250 of 2015:

S.Poosaimani

... Petitioner

(In W.P(MD)No.14250 of 2015)

A.Mookiah

... Petitioner

(In W.P(MD)No.14251 of 2015)

K.Lakshmanan

... Petitioner

(In W.P(MD)No.14252 of 2015)

V.Kumarasamy

... Petitioner

(In W.P(MD)No.14253 of 2015)

Vs.

1.The Government of Tamil Nadu,
Represented by its Secretary to Government,
Home (Police) Department,
Secretariat,
Chennai – 600 009.

2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 600 004.



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3. The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.

4. The Superintendent of Police,
Tirunelveli District Police Office,
Tirunelveli.

5. The Principal Accountant General
(Accounts and Entitlements),
261, Anna Salai,
Chennai-600 018.

... Respondents
(In all Writ Petitions)

Prayer in W.P(MD)No.14250 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order Na.Ka.No.A1/5891/2015-222 dated 03.07.2015 passed by the third respondent and quash the same and consequently, direct the respondents to upgrade the petitioner as Grade-I Police Constable with effect from 13.02.1987 F.N. and as Head Constable with effect from 13.02.1992 and as SSI with effect from 13.02.2002 and grant all the service, salary, monetary benefits and pensionary benefits within the time limit to be fixed by this Court.

Prayer in W.P(MD)No.14251 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order Na.Ka.No.A1/5891/2015-217 dated 03.07.2015 passed by the third respondent and quash the same and consequently, direct the respondents to upgrade the petitioner as Grade-I Police Constable with effect from 16.12.1986 F.N. and as Head Constable with effect from 16.12.1991 and as SSI with effect from 16.12.2001 and grant all the service, salary, monetary benefits and pensionary benefits within the time limit to be fixed by this Court.



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Prayer in W.P(MD)No.14252 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order Na.Ka.No.A1/5891/2015-36 dated 01.06.2015 passed by the third respondent and quash the same and consequently, direct the respondents to upgrade the petitioner as Grade-I Police Constable with effect from 13.02.1987 F.N. and as Head Constable with effect from 13.02.1992 and as SSI with effect from 13.02.2002 and grant all the service, salary, monetary benefits and pensionary benefits within the time limit to be fixed by this Court.

Prayer in W.P(MD)No.14253 of 2015 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order Na.Ka.No.A1/5891/2015-202 dated 03.07.2015 passed by the fourth respondent and quash the same and consequently, direct the respondents to upgrade the petitioner as Grade-I Police Constable with effect from 18.12.1986 F.N. and as Head Constable with effect from 18.12.1991 and as SSI with effect from 18.12.2001 and grant all the service, salary, monetary benefits and pensionary benefits within the time limit to be fixed by this Court.

For Petitioner	: Mr.A.Thirumurthy for M/s.Victory Associates (In all Writ Petitions)
For R1 – R4	: Mrs.D.Farjana Ghoushia Special Government Pleader (In all Writ Petitions)
For R5	: Mr.P.Gunasekaran (In all Writ Petitions)



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COMMON ORDER

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The Writ Petitions have been filed for issuance of Writ of Certiorarified Mandamus, to quash the impugned order passed by the respondents and consequently, direct the respondents to upgrade the petitioners as Grade-I Police Constable and as Head Constable and as SSI and to grant service, salary, monetary benefits and pensionary benefits to the petitioners.

2. When the writ petitions were taken up for hearing, the learned Special Government Pleader appearing for the respondents submitted that the issue of granting upgradation / promotion to the next level in the Police Department was considered by the Hon'ble Full Bench of this Court vide order dated 04.02.2022 passed in *State of Tamil Nadu and others Vs. C. Srinivasan (W.A. Nos. 3748 of 2019 batch order dated 04.02.2022)* reported in *2022 (1) CTC 833*. The issue that was referred is whether the upgradation/promotion to the next level can be granted only on completion of qualifying service as prescribed by the relevant Government Orders or can it be granted as deemed upgradation or deemed promotion. The Hon'ble Full Bench has held that the proposition laid down in the case of *The Principal Secretary to Government Vs. V.Ramachandran and others [Review Application Nos.70 to 79 etc. of 2015 dated 22.03.2017]* has laid down the correct proposition of law. The judgment



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rendered in the case of ***The Government of Tamil Nadu represented by Home***

Secretary Vs. V.Samy and others [W.A.(MD).No.1506 of 2011 etc. batch dated

17.06.2013], did not lay down correct proposition of law and the Hon'ble Full Bench overruled the judgment of Sami's case (stated supra). The Hon'ble Full Bench has held that there is no question of deemed upgradation or deemed promotion and the benefit can be extended only on completion of qualifying service in each level. The relevant portion of the order is extracted hereunder:

“We hold that the Division Bench in V.Samy case did not lay down the law correctly and we uphold the law laid down in V.Ramachandran case to the extent that there is no deemed upgradation or deemed promotion contemplated in the relevant Government orders and the benefit of upgradation/promotion to the next level can be granted/claimed only on completion of the qualifying service in each level/rank as prescribed in the relevant Government Orders. At the risk of repetition, insofar as understanding the expression “retrospective operation” is concerned, we hold that The Government Orders operate prospectively but it imposes/grants new results in respect of a past event. In other words, the Government Order operates forward but it looks backward and in that it attaches new consequences for the future to an event that took place before the Government Order was issued. If the Government Orders are understood in this perspective,, there is no need to get into the issue of “retrospective operation”. Thus, we are of the view that the Division Bench while



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rendering the judgment in V.Ramachandran case dealt with the Government orders in its proper perspective and the judgment in V.Samy case is hereby overruled.”

3. Following the Hon’ble Full Bench Judgment, the Hon’ble Division Bench in W.A.Nos.3748 of 2019 etc., batch has allowed the Writ Appeals filed by the State.

4. At this juncture, the learned counsel appearing for the petitioners submitted that against the judgment of Ramachandran case (stated supra), S.L.P. No(s).6980 to 6996 of 2018 was filed and the case is pending. The Learned Special Government Pleader submitted that the similar plea was submitted before the Learned Single Judge while considering the case filed in W.P.(MD).No.17111 of 2019, wherein, the said Writ Petition was dismissed vide order dated 02.03.2022 and the relevant portion is extracted hereunder:

“3. However, this Court is of the considered opinion that in the event of disposal of the Special Leave Petition by the Hon'ble Supreme Court of India, if any benefit is granted, thereafter, the petitioner is at liberty to claim the same based on the judgment to be passed by the Hon'ble Supreme Court of India”.



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5. Hence, following the judgment dated 04.02.2022 of the Hon'ble Full Bench and the judgment dated 15.03.2022 rendered by Hon'ble Division Bench in W.A.Nos.3748 of 2019 etc., batch and the judgment rendered in W.P.(MD).No.17111 of 2019 by Learned Single Judge, this Court is inclined to dismiss the present Writ Petitions. Hence, these Writ Petitions are dismissed. However, if any benefit is granted in Special Leave Petition by the Hon'ble Supreme Court, the petitioners are at liberty to claim the same after the disposal of the SLP. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
Nsr



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To

1. The Secretary to Government,
The Government of Tamil Nadu,
Home (Police) Department,
Secretariat,
Chennai – 600 009.
2. The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai – 600 004.
3. The Deputy Inspector General of Police,
Tirunelveli Range,
Tirunelveli.
4. The Superintendent of Police,
Tirunelveli District Police Office,
Tirunelveli.
5. The Principal Accountant General
(Accounts and Entitlements),
261, Anna Salai,
Chennai-600 018.



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S.SRIMATHY, J.

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